

## Response under 37 CFR 1.116 – Expedited Procedure

Serial No.: 10/068,710

Examiner: Alpus Hsu

REMARKS/ARGUMENTS

Claims 9-16 and 18-23 remain in this application, with claims 9 and 15 being independent claims.

Regarding independent claims 9 and 15, these claims were rejected under 35 USC 103(a) as being unpatentable over Luijten et al. (US Patent Application No. 2001/0021174 A1) in view of Kilkki et al. (US Patent No. 6,041,039). Applicants respectfully assert that the prior art (Luijten in view of Kilkki) does not teach or suggest the discovery of the present invention. In fact Luijten discloses the exact problem identified in the background of the present invention. Luijten discloses a switching device for controlling the routing of data packets (see title, abstract, and detailed description of Luijten). As discussed in the background of the present invention, “[c]existing congestion control mechanisms are typically implemented at the *switching controller level* of the data communication switch (page 1, 29-31)”. Further, “packets are transmitted to the switching controller without regard to the type of priority associated with the incoming packets (page 2, lines 3-5)”. This is exactly what is disclosed in Luijten. See, for example, para. [0026], where in the Switching Device 10, the task of the data packet access controller 40 is to ensure that data packets arriving, which have been sent despite negative grant information are recognized. This is the type of problem that the present invention overcomes, by performing traffic management at the MAC level, and then delivering the packet to the *switching controller* if the packet is admitted at the access controller as claimed in claims 9 and 15. Therefore Applicants respectfully assert that Luijten, does not teach the present invention, rather Luijten actually discloses the problem that the present invention overcomes and solves. Applicants respectfully requests that the rejections of claims 9 and 15 be withdrawn.

Regarding claims 8-14, as these claims depend either directly or indirectly from independent claim 9, and therefore incorporate all the limitations therein, for the reasons set forth with respect to claim 9, Applicants assert that these claims are also patentable over the cited references.

Regarding claims 16 and 18-23, as these claims depend either directly or indirectly from independent claim 15, and therefore incorporate all the limitations therein, for the reasons set forth with respect to claim 15, Applicants assert that these claims are also patentable over the cited references.

It is believed that the foregoing places the Application in condition for allowance; therefore, Applicant respectfully requests withdrawal of the Examiner’s rejection of the claims as set forth in the Office Action, and full allowance of same. Should the Examiner have any further comments or

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suggestions, it is respectfully requested that the Examiner contact the undersigned to expeditiously resolve any outstanding issues.

Respectfully submitted,

ALCATEL



Craig A. Hoersten  
Reg. No. 38,917

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Alcatel  
Intellectual Property Department  
3400 W. Plano Parkway, M/S LEGL2  
Plano, TX 75075  
Phone: (972) 519-5143  
Fax: (972) 477-9328